

GELLERT & KLEIN, P.C.
ATTORNEYS AND COUNSELORS AT LAW
75 WASHINGTON STREET
POUGHKEEPSIE, NEW YORK 12601-2303
(845) 454-3250
FAX: (845) 454-4652
www.gklaw.us

LEONARD KLEIN
ARTHUR L. GELLERT
STEPHEN E. EHLERS
JOHN A. GEOGHEGAN
LILLIAN S. WEIGERT
JAMES M. FEDORCHAK
STEPHEN E. DIAMOND
SCOTT L. VOLKMAN
DAVID R. WISE
RODERICK J. MACLEOD
BEVIN S. HARRINGTON
DANIEL H. STOCK
LINDA M. MURRAY
KELLY L. TRAVER

MEMO ENDORSED

JOSEPH H. GELLERT
(1907-1989)
OFFICE
12 WESTER AVENUE
POUGHKEEPSIE, NEW YORK 12601
PURCHASE
JAN 25 2008
FAX: (845) 454-0111

VARIOUS GELLERT & KLEIN ATTORNEYS
ARE ALSO ADMITTED TO PRACTICE IN
CT, FL, MA, ENGLAND

January 24, 2008

Hon. George A. Yanthis
United States District Court
Southern District of New York
U.S. District Courthouse
300 Quarropas Street
White Plains, NY 10601

Re: Trustees of Bricklayers and Allied Craftworkers
Local 5 v. Carmody Defendants, et al.
07 CIV 7529 (KMK)(GAY)
Our File No. 26532.0931

Dear Judge Yanthis:

Please consider this letter as a motion for reconsideration under Local Rule 6.3 of your endorsed Order in the above matter dated January 17, 2008.

I had anticipated that Mr. Pirrotti and I would have the opportunity to discuss this issue with you prior to a decision as I had new information on point.

I was only recently advised by my client that Carmody Construction Corp. makes extensive use of non-union mason employees to perform masonry work on its construction projects. The Labor Agreement between the Bricklayers and Carmody does not distinguish between members of the Union and non-members. It is the obligation and fiduciary duty of the Trustees to collect contributions for all masons employed by Carmody, Union members and non-members alike. The Trustees may not discriminate on the basis of union membership.

In Adlers v. Bricklayers, 779 F. Supp. 914 (DCWD Michigan 1991) the Court held that a provision limiting benefits to union members violated the requirement of the Labor Management Relations Act that such employee benefit

Application denied. The Court did not overlook any matter. Local Rule 6.3. SO ORDERED. See A. G. G. 4/10